

REMARKS/ARGUMENTS

By this Amendment, claim 2 has been canceled and claim 1 has been amended. Claims 1 and 3-14 remain in the application.

Claim Amendment Support

The amendment to claim 1 is supported, for example, by FIG. 5, illustrating the planar femoral surface 64 of the guide arm portion 48 lying in a plane spaced from the plane of the planar tibial surface 66, both of which planes are illustrated as being substantially parallel to and spaced from the distal femoral resection plane 16 defined by the cutting guide slot 58 (See also page 13, lines 3-5).

Claim Rejections – 35 USC §102

The rejection of claims 1-2, 5-6, 10 and 14 under 35 U.S.C. §102(b) as being anticipated by White (US Patent No. 5,662,656) is respectfully traversed.

FIG. 12 of White illustrates the assembly positioned for an anterior femoral resection and FIG. 15 of White illustrates the assembly positioned for a distal femoral resection. When positioned as in FIG. 12, element 79 does not extend outward from the posterior side of the cutting block 113; when positioned as in FIG. 15, element 25 does not have a surface that covers a portion of a surface of element 79.

Accordingly, White does not anticipate claim 1 or its dependent claims and claim 1 and its dependent claims are patentable over White.

The rejection of claims 1, 5 and 8-10 under 35 U.S.C. §102(b) as being anticipated by Fargie et al. (US Patent No. 4,736,737) is respectfully traversed. As can be seen from FIGS. 1 and 3 of Fargie et al., when elements 30 are mounted to element 38, the planar surfaces of elements 30 (that cover at least a portion of a surface of element 38) are perpendicular to the guide slots 44, not parallel.

Accordingly, Fargie et al. does not anticipate claim 1 or its dependent claims and claims 1, 5 and 8-10 are patentable over Fargie et al..

Claim Rejections – 35 USC §103

The rejection of claims 7-8 and 11-13 under 35 U.S.C. §103 as being unpatentable over White (US Patent No. 5,662,656) is respectfully traversed.

One of the White's objectives was to provide an instrument with a single resection guide that provides for both anterior and distal femoral resections. (col. 3, lines 22-28). White accomplishes this by making the resection guide 113 attachable to the instrument body construct 25 in two positions. (col. 8, lines 8-17). If White were to make elements 113 and 25 integral instead of separate, it is difficult to perceive how the resulting construct would still be usable for both anterior and distal femoral resections. Accordingly, White is believed to teach away from the invention of claims 7-8, and claims 7-8 are patentable over White. Claims 11-13 are dependent upon claim 1 and are accordingly patentable over White as well.

Conclusion

It is believed that all of claims 1 and 3-14 are in condition for allowance. Reconsideration and reexamination of all of claims 1 and 3-14 is respectfully requested. Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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